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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/041,832	10/19/2001	Robert Dale Haun	DEE6270P0130US	4546

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The Law Office of Randall T. Erickson, P.C.
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EXAMINER

BOTTORFF, CHRISTOPHER

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary**Application No.**

10/041,832

Applicant(s)

HAUN, ROBERT DALE

Examiner

Christopher Bottorff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5, 6 and 11-14 is/are allowed.
- 6) ☐ Claim(s) 1-3, 7-10, and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The amendment filed March 16, 2004 has been entered. Claim 4 is canceled.
Claims 1-3 and 5-15 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Esau et al. US 5,339,494 in view of Smith US 6,374,936.

Esau et al. discloses a hinge assembly A (note the reference numerals added to the attached copy of Figure 4) comprising a double-rocker, four link mechanism. A hood-mounted bracket 23 comprises one link and is mounted to an underside of a tractor hood 14, near a back end of the tractor hood. The hinge allows the hood to open upwardly and backwardly from the front end of the tractor. See column 1, line 63, through column 2, line 2; and Figures 1-3.

The double-rocker, four link mechanism includes a lower, fixed link LL (note the reference numerals added to the attached copy of Figure 4) having two opposite ends E1, E2 (note the reference numerals added to the attached copy of Figure 4). Fixed link LL forms a bracket B (note the reference numerals added to the attached copy of Figure 4) and, consequently, each end of the fixed link is defined by a body bracket B mounted

to the tractor body. The mechanism further includes an upper, coupler link CL (note the reference numerals added to the attached copy of Figure 4) defined by a portion of the hood mounted bracket and formed by a central region of the bracket. The coupler link has two opposite ends. Two rocker links 16, 18 are provided that each has a lower end connected pivotally to one of the opposite ends of the fixed link at pins 24 and 26 respectively and an upper end connected pivotally to one of the opposite ends of the coupler link CL at pins 20 and 22 respectively. The rocker links are comprised of a comparatively longer, front link 18 and a comparatively shorter, back link 16, and wherein the coupler link CL is the shortest link. Also, the front 18, back 16, and coupler links CL are displaceable so that the upper end of the back link is movable toward and away from the lower end of the front link, between positions on opposite sides of a center line drawn between the lower end of the back link and the other end of the coupler link.

Esau et al. does not disclose that the tractor is equipped with a loader bucket. However, Smith teaches that the practice of equipping a tractor with a loader bucket 30 was old and well known in the art at the time the invention was made. See Figure 1. From the teachings of Smith, equipping the tractor of Esau et al. with a loader bucket would have been obvious to one of ordinary skill in the art at the time the invention was made. This would assist the tractor in moving earth or carrying heavy loads.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Esau et al. US 5,339,494 in view of Smith US 6,374,936 and Kurtz, Jr. et al. US 5,535,846.

Esau et al. discloses a hinge assembly A (note the reference numerals added to the attached copy of Figure 4) comprising a double-rocker, four link mechanism. A hood-mounted bracket 23 comprises one link and is mounted to an underside of a tractor hood 14, near a back end of the tractor hood. The hinge allows the hood to open upwardly and backwardly from the front end of the tractor. See column 1, line 63, through column 2, line 2; and Figures 1-3.

Esau et al. does not disclose that the tractor is equipped with a loader bucket. However, Smith teaches that the practice of equipping a tractor with a loader bucket 30 was old and well known in the art at the time the invention was made. See Figure 1. From the teachings of Smith, equipping the tractor of Esau et al. with a loader bucket would have been obvious to one of ordinary skill in the art at the time the invention was made. This would assist the tractor in moving earth or carrying heavy loads.

Although Esau et al discloses that the hood-mounted bracket is secured to the hood, Esau et al., as modified by Smith, does not disclose that the bracket is secured by adhesive. Also, Esau et al. does not disclose that hood-mounted bracket 23 comprises a metal base portion extending across the width of the hood with the one link fixed at one end of the base portion.

However, Kurtz, Jr. et al. teaches that the practice of providing a hood-mounted bracket 31 as a metal base portion extending across the width of a polymeric hood 20 with one link fixed at one end of the base portion and securing the bracket to the hood adhesively was old and well known in the art at the time the invention was made. The base portion comprises the portion of bracket 31 extending along the top portion 27 of

hood 20 and the one link comprises the portion of bracket 31 extending along side panel 28 of hood 20. See Figures 3 and 7-9; column 5, lines 63-67; and column 6, lines 1-22. From the teachings of Kurtz, Jr. et al., providing hood-mounted bracket 23 of Esau et al. with a metal base portion extending across the width of the hood with the one link fixed at one end of the base portion and securing the bracket to the hood adhesively would have been obvious to one of ordinary skill in the art at the time the invention was made. This would effectively fasten the bracket to the hood and provide the bracket with strength and support.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Esau et al. US 5,339,494 in view of Smith US 6,374,936 and Kurtz, Jr. et al. US 5,535,846 as applied to claim 7 above, and further in view of Schroeder et al. US 5,964,490.

Esau et al., as modified by Smith and Kurtz, Jr. et al., does not disclose that hood-mounted bracket 23 is composed of steel. However, Schroeder et al. teaches that the practice of forming a metal vehicle member, which is adhesively secured to a polymeric vehicle member, of steel was old and well known in the art at the time the invention was made. See column 2, lines 18-22, and column 1, lines 32-40. From the teachings of Schroeder et al., forming bracket 23 of Esau et al., as modified by Smith and Kurtz, Jr. et al., of steel would have been obvious to one of ordinary skill in the art at the time the invention was made. This would provide the bracket with sufficient strength.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kurtz, Jr. et al. US 5,535,846 in view of Smith US 6,374,936, Schroeder et al. US 5,964,490, and Fleming US 5,067,759.

Kurtz, Jr. et al. discloses a tractor that includes a combination of a polymeric hood 20 and a metal hinge bracket 31 that is secured adhesively to the hood. Metal hinge bracket 31 comprises a metal plate extending across a width of hood 20 and formed by the portion of bracket 31 extending along the top portion 27 of hood 20. Also, one link is formed by the portion of bracket 31 extending along side panel 28 of hood 20. See Figures 3 and 7-9; column 5, lines 63-67; and column 6, lines 1-22.

Kurtz, Jr. et al. does not disclose that the tractor is equipped with a loader bucket, that the metal of the bracket is steel, and that the polymeric material of the hood is a vacuum-formed polypropylene material.

However, Smith teaches that the practice of equipping a tractor with a loader bucket 30 was old and well known in the art at the time the invention was made. See Figure 1. From the teachings of Smith, equipping the tractor of Esau et al. with a loader bucket would have been obvious to one of ordinary skill in the art at the time the invention was made. This would assist the tractor in moving earth or carrying heavy loads.

Schroeder et al. teaches that the practice of forming a metal vehicle member, which is adhesively secured to a polymeric vehicle member, of steel was old and well known in the art at the time the invention was made. See column 2, lines 18-22, and column 1, lines 32-40. From the teachings of Schroeder et al., forming the bracket of

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Kurtz, Jr. et al. of steel would have been obvious to one of ordinary skill in the art at the time the invention was made. This would provide the bracket with sufficient strength.

Also, Fleming teaches that providing polymeric vehicle parts as polypropylene and forming polypropylene vehicle parts through a vacuum forming process was old and well known in the art at the time the invention was made. See column 2, lines 43-45.

From the teachings of Fleming, making the polymeric hood of Kurtz, Jr. et al. of polypropylene would have been obvious to one of ordinary skill in the art at the time the invention was made in order to minimize the weight and cost of the hood. From the further teachings of Fleming, using a vacuum forming process to form the hood of Kurtz, Jr. et al. of polypropylene would have been obvious to one of ordinary skill in the art at the time the invention was made in order to utilize a process familiar to manufacturing personnel. Moreover, in regard to the vacuum-forming process, the determination of patentability is based upon the product and not the process. In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kurtz, Jr. et al. US 5,535,846 in view of Smith US 6,374,936, Schroeder et al. US 5,964,490, and Fleming US 5,067,759 as applied to claim 9 above, and further in view of Esau et al. US 5,339,494.

Kurtz, Jr. et al., as modified by Smith, Schroeder, and Fleming, does not disclose that the combination comprises a double-rocker, four link hinge mechanism. However, Esau et al. teaches that the practice of a tractor hood and hinge bracket combination

with a double-rocker, four-link hinge mechanism was old and well known in the art at the time the invention was made. From the teachings of Esau et al. providing the hood and hinge bracket combination of Kurtz, Jr. et al, as modified by Smith, Schroeder, and Fleming, with a double-rocker, four link hinge mechanism would have been obvious to one of ordinary skill in the art at the time the invention was made. This would allow the hood to open and close efficiently and effectively.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Esau et al. US 5,339,494 in view of Smith US 6,374,936 as applied to claim 1 above, and further in view of Schroeder et al. US 5,964,490.

Although Esau et al discloses that the bracket is secured to the hood, Esau et al., as modified by Smith, does not disclose that the bracket is secured by adhesive, that the hood is made from a polymeric material, and the bracket is made from steel. However, Schroeder et al. teaches that the practice of securing a steel support structure to a plastic body member with adhesive was old and well known in the art at the time the invention was made. See column 2, lines 18-22, and column 1, lines 32-40. From the teachings of Schroeder et al., securing the bracket support structure of Esau et al., as modified by Smith, to the hood body member by adhesive would have been obvious to one of ordinary skill in the art at the time the invention was made. This would effectively fasten the bracket to the hood. Also, making the hood from a polymeric material and making the bracket from steel would have been obvious to one of ordinary

skill in the art at the time the invention was made in order to minimize the cost of the hood and provide the bracket with strength.

Allowable Subject Matter

Claims 5, 6, and 11-14 are allowed. The prior art does not disclose or teach an extensible-retractable spring connected between the rocker links, as defined in claim 5. The prior art also does not teach a spring that is mounted such that the front end is comparatively closer to the lower end of a front link and the back end of the spring is comparatively farther from the lower end of a back link, as defined in the claim 6. These features, in combination with the further limitations of the claims, distinguish the claimed invention over the prior art.

Response to Arguments

Applicant's arguments filed March 16, 2004 have been fully considered but they are not persuasive.

The arguments included a marked up copies of Figures 2 and 3 of the present application to illustrate the claimed "centerline." Although the centerline depicted by Applicant would satisfy the definition in the claims, numerous other centerlines would also satisfy the definition in the claims. The attached marked up copies of Figures 2 and 4 of Esau et al. illustrate a centerline that satisfies the definition in the claims. Claim 1 states that the centerline is "drawn between the lower end of the back link and the first end of the coupler link." The centerline illustrated in the marked up copies of

Figures 2 and 4 of Esau et al. is drawn between the lower end of the back link and the first end of the coupler link, and the upper end of the back link is movable between positions on opposite sides of the centerline. Applicant's illustration depicts the centerline as intersecting specific points on the lower end of the back link and the first end of the coupler link, but such intersection is not required by the claims.

In response to applicant's argument that Schroeder et al. fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the absence of bolts) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As outlined in the rejections above, the rejected claims do not distinguish over the prior art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Bottorff whose telephone number is (703) 308-2183. The examiner can normally be reached on Mon.-Fri. 7:30 a.m. - 4:00 p.m..

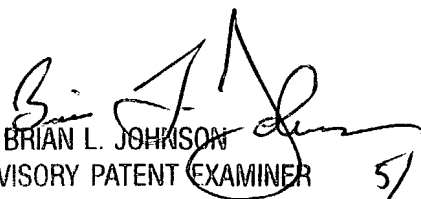
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Johnson can be reached on (703) 308-0885. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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